

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN MARK NOENNIG**, on March 13, 2003 at 3:00 P.M., in Room 472 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Mark Noennig, Chairman (R)  
Rep. Eileen J. Carney, Vice Chairman (D)  
Rep. Scott Mendenhall, Vice Chairman (R)  
Rep. Arlene Becker (D)  
Rep. Rod Bitney (R)  
Rep. Larry Cyr (D)  
Rep. Ronald Devlin (R)  
Rep. Gary Forrester (D)  
Rep. Ray Hawk (R)  
Rep. Hal Jacobson (D)  
Rep. Jesse Laslovich (D)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Penny Morgan (R)  
Rep. Holly Raser (D)

**Members Excused:** Rep. Alan Olson (R)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Linda Keim, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The tape stamp for these minutes appears at the beginning of the content it refers to.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 112, SJ 25, SJ 26, 3/7/2003  
Executive Action: SJ 25 Be Concurred In: 15-1,  
SB 97 Be Concurred In: 16-0,  
SB 98 Be Concurred In As Amended: 14-2

**HEARING ON SB 112**

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 16}***

**Sponsor: SENATOR BEA MCCARTHY, SD 29, ANACONDA**

**Opening Statement by Sponsor:**

**SEN. MCCARTHY** said that SB 112 assesses a surcharge on certain licenses and directs that proceeds go toward county search and rescue operations, toward training, and toward matching funds for equipment purchase. She explained that search and rescue teams serve a vital need, are on 24-hour call, and undergo continued training to upgrade their skills.

**Proponents' Testimony:**

**Thomas Dennis Blaz, Chief of Law Enforcement for Anaconda and Deer Lodge County**, said that this bill is vital for funding professional search and rescue operations, and added that most people buy their own equipment. He said that Anaconda/Deer Lodge County budgets \$2,793 which includes upkeep, maintenance and heating their building, gasoline used on search and rescue, and watchdog operations for several detention facilities. Search and rescue teams conduct searches for hunters, fishermen, boaters, ATV operators, snowmobilers, and hikers.

**Dave Dierenfeldt, Anaconda Pintler Search and Rescue**, agreed with Mr. Blaz's testimony and added that all personnel are volunteers and devote over 100 hours per year of volunteer time. Personal costs are incurred for training and specialized equipment.

**William Gibson, No. 1590 Search and Rescue in Butte**, said that he is a 23-year veteran who has spent hundreds of dollars of his own money to look for recreationalists and asked for financial help.

**Ralph DeCunzo, Search Coordinator for Lewis and Clark Search and Rescue**, said that he had been doing this for 26 years and has been on 250-300 missions. He stated that this bill addresses the needs of volunteers who commit thousands of hours and hundreds of dollars to this program. The bill is to reimburse for expenses incurred on a mission, it is not to pay professional volunteers. He pointed out that the people they will be looking for will be the ones paying for the services with a vehicle tax.

**Brigadier General Randy Mosley, Deputy Director Department of Military Affairs (DMA)**, said that DMA administers the Disaster and Emergency Services Division. SB 112 contains a mechanism to reimburse local government for extra costs incurred in search and

rescue operations, provides a means to improve skills and equipment at the local level, and provides an incentive for loosely organized groups in some counties to become better trained and equipped. He said that DMA is occasionally asked for assistance during searches, particularly with aircraft. Some counties have initial funding mechanisms in place and a budget which comes from mill levy or volunteer donations. He explained that it is important there be no penalty for stepping forward locally to allow leverage of limited resources.

**Pat Clinch, Lewis and Clark Search and Rescue**, said that he is a 23-year member of search and rescue operations. He said that it has been questioned why a direct charge is not made for emergency services. He stated, "We should not be asking the victims being searched for to pay for the service, and trained professional volunteers should be spending their time getting more training, not doing fund raisers."

**Gordon Morris, Director Montana Association of Counties (MACo)**, said that MACo is now a Proponent because the language on Page 1, Line 30 and Page 2, Lines 1-2 was stricken from the original bill. He said that the bill now applies to any county, regardless of their source of funding.

**Jim Smith, Montana Sheriffs and Peace Officer's Association**, said that it would be difficult to convey the importance and value of search and rescue units to sheriffs around the state. He stated that the rescue volunteers are highly motivated and dedicated. He said that this bill develops a funding source along many lines.

**Mona Jamison, representing Gallatin County**, commended bill drafters and sponsors for allowing local governments to share in the reimbursement of the costs of a vital community function.

**Ken Hoovestol, representing Montana Snowmobile Association**, said that they support the bill.

**Opponents' Testimony:** None

**Informational Testimony:**

*{Tape: 1; Side: A; Approx. Time Counter: 16 - 30}*

**Bob Lane, Chief Legal Counsel for the Department of Fish, Wildlife and Parks (FWP)**, presented written testimony and said FWP doesn't yet know the impact of the surcharge on their federal funding eligibility.

**EXHIBIT** (loh53a01)

**Questions from Committee Members and Responses:**

**REP. JACOBSON** asked how the new revenue will be distributed.

**Gen. Mosley** responded that the Department will develop rules for distributing the revenue, but has not worked out a definite process at this point.

**REP. JACOBSON** asked if the Department would be putting together a set of administrative rules to address how the different search and rescue money requests will be dealt with. **Gen. Mosley** said they will solicit input from those organizations.

**REP. MORGAN** asked for an explanation of Page 2, Lines 26-27.

**Legislative Staffer Connie Erickson** responded that the language referred to pertains to current law. She said that Page 4, Lines 11-18 has the current language and fund transfer information.

**REP. MORGAN** asked about the current fiscal note. **SEN. MCCARTHY** said the most recent Fiscal Note is dated 2/19/03 and marked #3.

**CHAIRMAN NOENNIG** asked what the effect of striking the language at the bottom of Page 1 and top of Page 2 would be. **Gordon Morris** said that with the current language, search and rescue operations were being denied the opportunity to participate if they were funded by any other revenue source. He said, "By striking that language, they would qualify for up to \$3,000 and could participate in the other 50%."

**CHAIRMAN NOENNIG** asked, "Are you anticipating that this will be an additional but not complete reimbursement?" **Gordon Morris** responded that it would be an addition to, since most search and rescue operations are funded at the local level by a variety of sources, principally the general fund of the county. He explained that they would have been disqualified from this bill's funding if they had been funded even to a limited extent.

**CHAIRMAN NOENNIG** asked, "What if they were completely funded by the county and what happens under the bill the way it is now written?" **Gordon Morris** said search and rescue operations will still be eligible for the up-to-\$3,000 funding, as well as for the matching part of the program, an additional advantage.

**Closing by Sponsor:**

**SEN. MCCARTHY** said that the original bill came from Colorado where it has been working very well and thanked the proponents for testifying. She stated that **REP. LASLOVICH** would carry the bill on the House floor and that **Bob Lane** will give the Committee

the go ahead for Executive Action when he receives that information from the federal government.

**HEARING ON SJ 25**

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 12.5}***

**Sponsor: SENATOR JOHN BOHLINGER, SD 7, BILLINGS**

**Opening Statement by Sponsor:**

**SEN. BOHLINGER** said that SJ 25 urges the World Health Organization (WHO) to include Taiwan as a member in its activities. He said that WHO is the United Nations' specialized agency for health that was established in 1948, and its objective is the attainment of the highest possibility of good health by all people. He said that all member countries of the United Nations can become members of WHO by accepting its Constitution. Other countries may be admitted as members when their application has been approved by a simple majority of the WHO assembly.

**SEN. BOHLINGER** stated that there are presently 192 members of WHO and 192 countries that belong to the United Nations. Taiwan's population is over 23 million people, which is larger than 75% of the member countries. Taiwan has one of the highest life expectancies of any country in Asia, low infant mortality rates, and is a very forward-thinking country.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MORGAN** asked if it would make a difference if the United States withdrew as a member of the United Nations in light of the current situation. **SEN. BOHLINGER** said the question of the vitality of the United Nations might be brought into question if they fail to act as a world peacekeeping organization, but that is not what this resolution is about. It is just asking that Taiwan be granted permission to join WHO.

**REP. MORGAN** asked why Taiwan isn't a member of the United Nations. **SEN. BOHLINGER** explained that the problem is that China is a member and China is opposed to Taiwan's membership. He said that he did not know whether this resolution would have a lot of influence or not.

**REP. BECKER** asked if a country can be a member of WHO without being a member of the United Nations. **SEN. BOHLINGER** said that membership in the United Nations is required.

**REP. MENDENHALL** inquired, "Why should the Montana Legislature care about this and where did the bill come from?" **SEN. BOHLINGER** said that collectively we can accomplish more than we can as individual nations or as people. Taiwan has expressed an interest in becoming a part of WHO and feels they have something to offer. They have made a significant contribution to the health of their people. Taiwan was the first Asian nation to eradicate polio and the first country in the world to provide free Hepatitis B vaccinations. It is important to send a message that we recognize them as healthcare players in contributing resources to the efforts of WHO. **SEN. BOHLINGER** said that the President of the Senate asked him to carry the bill.

**Closing by Sponsor:**

**SEN. BOHLINGER** asked for a do pass. It was determined that REP. RASER will carry the bill on the House floor.

**HEARING ON SJ 26**

***{Tape: 1; Side: B; Approx. Time Counter: 12.5 - 25}***

**Sponsor: SEN. JOHN BOHLINGER, SD 7, BILLINGS**

**Opening Statement by Sponsor:**

**SEN. BOHLINGER** said that SJ 26 urges the United States Congress to appropriate "just compensation" to the State of Montana for the impact of federal land ownership on the state's ability to fund public education. SJ 26 brings forth that recognition because 28.9% of Montana's land mass is owned by the federal government, and the federal government owns 51.9% of all 13 western state properties. By comparison, in the eastern states only 4.1% of their land mass is owned by the federal government.

Education in Montana is principally funded through real estate taxes. With such a high percentage of federal land ownership, the ability to provide an expandable tax base for education is limited, and individual property taxes are high. From 1979 to 1998, the percentage of change in expenditure per pupil in the 13 western states increased 28% as compared to a 57% increase in the remaining states. He said that it is ironic to have the western states record a 28% increase in federal funding for education, but the rest of the states, where only 4.1% is owned by the federal government, received a 57% increase in funding.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:**

**Gordon Morris, Director, Montana Association of Counties (MACo),** said that he was available for questions relative to the impacts of federal land ownership as they pertain to counties.

**Questions from Committee Members and Responses:**

**REP. CARNEY** referred to the WHEREAS on Page 1, Line 27 and said that two years ago the federal government changed the formula that determined how they pay the counties and now they are paying more. She asked if that affected the figures, because they are paying the average of the highest three years for the last 15-20 years. **Gordon Morris** said that the Montana State Code was changed in the last session because of federal legislation concerning the National Forest County Coalition and the Underfunded School Coalition. Counties went to full payment and got out from under the 25% payment that was previously the mechanism for payments to counties for county road programs and public schools. The change ended up generating over \$3 million more based upon the three-year averaging referred to. Counties that have national forest land within their boundaries keep 66 2/3% for county road programs and 33 1/3% goes to the state for school equalization.

**REP. RASER** asked what the difference is between the impact fees on federal land and comparable privately owned land. **Gordon Morris** said that impact fees are also called "payment in lieu of taxes." He explained, "The federal government allocates that money to counties to offset the impact of federal lands within their boundaries and it has nothing to do with forest reserve receipts." He stated that Montana gets about \$14 million a year, that the amount has been increased by Congress over the past two Congressional Sessions, and that it goes entirely to counties for their discretionary use.

He said that SEN. BOHLINGER was probably talking about a Payment In Lieu of Taxes (PILT) Program for schools that are impacted by virtue of adjacent federal lands that generate pressures on the schools that drive up costs. An example is the Air Base in Cascade County driving up costs in those schools because of the increased student population.

**REP. MORGAN** referred to Line 14 and asked, "Would there be any objection to adding the word 'federal' to clarify that the

expenditures were made by the federal government and not Montana?" **SEN. BOHLINGER** said that is actually what they are talking about, it is not just Montana, it is referencing the 13 western states. He said that it is okay to change the language.

**Closing by Sponsor:**

**SEN. BOHLINGER** thanked the Committee for a good hearing and asked for support for this possible source of additional funding for public education.

**EXECUTIVE ACTION ON SB 97**

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.8}***

**Motion/Vote:** **REP. LASLOVICH** moved that SB 97 BE CONCURRED IN. Motion carried, 16-0 with **REPS. MAEDJE, OLSON, and BITNEY** voting by proxy.

**REP. RASER** asked that SB 97 be placed on the Consent Calendar. It was determined that **REP. LASLOVICH** will carry the bill on the House floor.

**EXECUTIVE ACTION ON SJ 25**

***{Tape: 2; Side: A; Approx. Time Counter: 5 - 12.6}***

**Motion:** **REP. RASER** moved that SJ 25 BE CONCURRED IN.

**Discussion:**

**REP. BECKER** asked if a country has to be a member of the United Nations in order to be a member of the World Health Organization (WHO). She asked, "What about being a member of WHO without being a member of the United Nations?" **Connie Erickson** referred to Page 1, Line 30 which asks that Taiwan be permitted appropriate and meaningful participation in the activities of WHO. She commented, "We are not really asking for membership, we are asking that somehow Taiwan can participate at some level in WHO without necessarily belonging to the United Nations." She said that the issue is China, which has always blocked Taiwan's membership in the United Nations.

**REP. RASER** commented that Montana is working to increase trade opportunities with Taiwan. She said, "My guess is that they are seeking to create further good will for our state."



**CHAIRMAN NOENNIG** said there is a trip which several members of the Legislature typically take to foster good relations and this bill probably came from discussion of the trip to Taiwan.

**REP. LASLOVICH** said that he would probably vote "no" on this resolution because it doesn't do anything, even though he believed it was a good gesture. **REP. RASER** responded by discussing "feel good" resolutions.

**REP. FORRESTER** asked, "Does this mean that our relations with the Republic of China will be compromised as a result of this Resolution if it passes?" **CHAIRMAN NOENNIG** said, "If we look at the policy issue, it is bad. It is the policy between whether we continue to support Taiwan or whether we offend mainline China because they are at odds." He commented that we have stronger trade relationships with Taiwan than we do with China.

**REP. MENDENHALL** acknowledged the benignant issue of resolutions, and said that most of the ones we see have some connection to Montana. He said that he would go along with the supposition that it is a trade issue.

**CHAIRMAN NOENNIG** referred to Page 1, Lines 23-24 and said that the United States has already declared its intention to support Taiwan's participation in international organizations. He said, "Maybe resolutions aren't appropriate, but if they are, it doesn't sound as if we are going against United States policy in doing this."

**Vote:** Motion carried 15-1, with **REP. LASLOVICH** voting no, on a voice vote.

**CHAIRMAN NOENNIG** asked **REP. RASER** to carry the bill on the House floor.

#### EXECUTIVE ACTION ON SJ 26

*{Tape: 2; Side: A; Approx. Time Counter: 12.6 - 30}*

**Motion:** **REP. MORGAN** moved that SJ 26 BE CONCURRED IN.

**Motion:** **REP. MORGAN** moved that SJ 26 BE AMENDED.

#### Discussion:

**REP. MORGAN** said that Page 1, Line 14 is not clear and that the word "federal" should be added before the word "expenditures."

**CHAIRMAN NOENNIG** read Line 14 with the new language.

**REP. LAWSON** said that may not be the intent, and was not the way he read it. He said that the way he read it was, "The 13 western state's spending has increased by 28% and the remaining state's total spending has increased by 57%." He said that he did not believe it had anything to do with federal spending.

**REP. MORGAN** said that is what she asked the Sponsor, and that she agreed with **REP. LAWSON**. **REP. CARNEY** said that she thought the way it was written was correct. **CHAIRMAN NOENNIG** said that the bill doesn't mention federal funding until Line 25.

**REP. MORGAN** said that she would withdraw her amendment.

**REP. FORRESTER** said that it appears this Resolution would speak to the greed of the state of Montana because we already get back \$1.56 for every dollar we send to the federal government. "Are we asking the federal government to take some of that \$1.56 and redistribute it in a different manner, or do we just want more? What is this Resolution about?" he asked.

**Connie Erickson** responded that the tax base is lowered when land in the school district is exempt from tax, so money has to come from another source to fund schools. School districts currently get federal money for the presence of federal land in their districts, called Federal Impact Aid, under the Public Law 874 Program (PL 874). She said, "We are not taxed for any of this, so are not increasing the amount we get back based on what we send to Washington."

**REP. FORRESTER** asked, "Do we want more than the \$.56 or are we going to redistribute that money in a different manner?" **Connie Erickson** said that this topic is a policy issue which she is unable to address. The \$1.56 is tied to how much we send to Washington and how much we get back. She said that we are not collecting taxes on this land because we can't impose taxes on federal land. The Resolution says that we would like to see some adequate compensation for the presence of these lands in Montana to offset the loss of property taxes that Montana doesn't get because of all the federal land in Montana.

**REP. FORRESTER** asked **REP. DEVLIN**, "Do you feel that this bill asks that money is distributed in a different manner, and that we would get no more than the \$1.56 for every dollar we put in?"

**REP. DEVLIN** said that in the case of gas tax, we get considerably more in benefits than we contribute, and more in the area of Medicare and Medicaid. **REP. DEVLIN** said, "My understanding of this Resolution is that we would like to see more revenue derived from the federal government in the area of royalties and the PILT payment, whether it is a new PILT payment that currently goes to

local governments and we set up a similar program that goes to schools, or whether we increase our royalty share from about 25% to a higher figure." He said that he felt this was a request for additional money, not for a redistribution.

**REP. FORRESTER** said that he would vote "no" on this Resolution because he felt the federal government has a big budget deficit now. He said that when we ask for more money it would be easy for the federal government to say they would just take it from somewhere else and move it to education and he was not willing to take that chance.

**REP. HAWK** said the United States government owns 1/3 of our state. He stated, "We are not allowed to derive any economic benefit from federal land in the form of logging or mining, it is just here for the people in the United States to recreate in. Perhaps the bill is saying that if we are unable to get any economic benefit off this land, that possibly the United States ought to pay a little more to use it. If we are going to turn it into a national park, we ought to have a user fee."

**REP. CARNEY** said she would vote against the Resolution also. She said that two years ago the payment from timber sales was raised.

**REP. RASER** said that raises the issue that our schools are funded on property taxes and our counties have large chunks of land on which we cannot generate property taxes. This isn't a Resolution saying "get us some more money." This is something we should look at. She said, "The federal government is asking more and more of our schools now and they are not going to be funding that." **REP. RASER** said that it is appropriate to say "let's look at the differential between what the land could generate in private property taxes versus the payment they get in lieu of taxes."

**REP. MAEDJE** said that we have our state lands and the money is required to go straight to education. The federal government can use the royalties from federal lands, projects, logging, mining, oil and gas. This Resolution is saying, "We have this way of doing this in Montana with our school trust lands for our schools and because federal land ownership is pretty stout here, some rural areas are made up almost entirely by federal land and we would like to see you give more 'just compensation' to education." He said that there is nothing here telling the federal government they have to spend more money on us, it would be "just compensation" along the lines of what we do with our own state land.

**VOTE:** Motion tied 8-8 in committee with REPS. BECKER, DEVLIN, HAWK, JACOBSON, LAWSON, MAEDJE, RASER, and NOENNIG voting aye. REPS. OLSON and BITNEY voted by proxy.

**EXECUTIVE ACTION ON SB 98**

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 15}***

**Motion:** REP. LASLOVICH moved that SB 98 BE CONCURRED IN.

**Discussion:**

**Connie Erickson** said that REP. MAEDJE had four different amendments and she ended up drafting only one of them. She explained that one proposed amendment had to do with the tax status of the personal-care facilities. She explained that all entities listed in the statute under consideration in this bill are listed as Class 4 property which is residential property and commercial property that isn't listed somewhere else, and are taxed at the same rate. The difference is if they apply for a Homestead Exemption where the exemption for a residential unit is higher than it is for a commercial unit.

Ms. Erickson said that the other issue in the proposed amendment is that these entities are tax-exempt if they are owned by a not-for-profit organization. Mr. Kemp at Department of Public Health and Human Services (DPHHS) advised that these are generally for-profit entities and would be taxed at the residential rate. The Department of Revenue (DOR) would know the status of the property in both cases.

**REP. MAEDJE** said that the concern of the people living there already was if there was a tax difference, but there isn't.

Connie Erickson addressed the second proposed amendment; concern over covenants and deed restrictions. She said that there was no need to get into clarifying that because no matter what laws we pass here, we cannot impair existing contracts, and covenants and deed restrictions are contracts.

Connie Erickson explained the idea behind the third proposed amendment which would have covered parking ordinances. She said a county can enact ordinances on parking and traffic as part of their power, and that is the purpose of zoning. You cannot treat the same property differently in the same district. If this bill passes, a personal-care facility will be no different than a residence in a zoning district, so a city could not say this residence is fine, but the residence next door will have parking restrictions imposed on it.

Connie Erickson explained Exhibit 2. She said that if this bill passes it will impact the lawsuit and make it moot because of law. The amendment will put a prospective applicability date on the bill, saying this law applies to personal-care facilities established after the effective date of the act. This will only apply after 10/1/2003 and will not impact the current lawsuit.

**EXHIBIT (loh53a02)**

**Motion:** REP. MAEDJE moved that SB 98 BE AMENDED.

**Discussion:**

REP. CARNEY asked REP. MAEDJE if this was acceptable to SEN. MANGAN. REP. MAEDJE said that SEN. MANGAN stated that he thought it was good, but that he didn't think it would work legally.

CHAIRMAN NOENNIG said that he did not like to interfere in existing lawsuits, but that the attorney for the plaintiffs said that without this amendment it would render moot the claims on the infringement of the zoning ordinance. CHAIRMAN NOENNIG said that this amendment would preserve the litigation over the two facilities in that one neighborhood, and the ones that gave rise to all the letters we received.

REP. HAWK said that HB 51 changed personal-care facilities and said they have to be listed as assisted-living facilities.

CHAIRMAN NOENNIG asked REP. HAWK if he was suggesting that "personal-care facility" is only in one spot in the amendment.

Connie Erickson suggested a language change to say "personal-care facility in this Act must read as an assisted-living facility."

**Vote:** Motion passed 16-0, on a voice vote.

**Motion:** REP. LASLOVICH moved that SB 98 BE CONCURRED IN AS AMENDED.

**Discussion:**

REP. MORGAN said that she opposed the bill because if regulations are already in place, we should not mess with the bill. She stated, "We are forcing zoning on this neighborhood. It is already an existing neighborhood."

REP. RASER said that it is already in policy. She said, "To restrict personal-care or assisted-living facilities from this says that licensed adult foster family care people are okay, but that elderly people who have exactly the same services are not okay is bad policy."

**REP. MENDENHALL** said there is a big difference between the adult foster family care and the assisted-living facilities in terms of the size. He said that it is a limit of four versus eight. He stated that he would resist the bill more so because it seems to be a local dispute issue. **REP. MENDENHALL** said, "Legislators tend not to impose state policy on those issues. There are mechanisms for local control."

**REP. HAWK** agreed with the size issue. If HB 51 passes, it will create three classes. Class "A" is comparable to a four bed foster care home and is already in statute, Classes "B" and "C" require more services for more people. He said, "Class "A" and "B" group homes already being in statute complicates the issue."

**REP. MORGAN** asked if Rose Hughes could address bed size in HB 51. **CHAIRMAN NOENNIG** asked Ms. Hughes to speak, without objection from the Committee, as HB 51 changed both the definition and the description of these personal-care facilities.

**Rose Hughes** said that the only limitation in the law on size is in Level "B" which cannot be more than five beds. Level "A" is light personal-care, light assistance; "B" allows more care than "A", and "C" allows care for dementia-related individuals.

**REP. MORGAN** said that in light of this information, there is even more reason for the bill. If HB 51 passes, "A" will have even more cars, "B" and "C" will require a lot of service vehicles, although "C" would be the quietest. She said that we are opening this up to a broader spectrum and it will be broader-based than adult foster care.

**REP. CARNEY** asked if Rose Hughes could testify and **CHAIRMAN NOENNIG** said that she could. There were no objections from the Committee.

**REP. CARNEY** referred to an earlier question she had asked Ms. Hughes at the hearing, to which the reply had been that this bill specifically says eight people because of where it is in the law. She asked, "Is that correct?" **Rose Hughes** said that this is eight beds and less, because the section of law following it states that it applies to eight beds or less only. **CHAIRMAN NOENNIG** said, "The point is, this statute currently says eight or fewer, but Class "B" which would be included in this facility allows five or fewer, so that would supercede this." He said there couldn't be more than five in Class "B".

**REP. MAEDJE** said that he would not support this bill because it is a big policy change. He said there are a lot of medical emergency vehicles involved in larger assisted-living facilities

and now we are opening up the door to allow these mini-elderly facilities to be scattered all over town. He said that is not a good idea for the long term because we have an aging population and larger assisted-living homes are one of the biggest construction booms in the state. He said that it is beneficial for cities to plan ahead and zone an area for those homes.

**REP. RASER** commented that there is a lot of misconception of what these homes are, how they fit in, and how they relate to some of the things we currently allow. She said that group homes for developmentally disabled persons not requiring skilled care are currently allowed, and that is the same level of care that would be provided for the elderly.

***{Tape: 3; Side: A; Approx. Time Counter: 0 - 8}***

**REP. RASER** said, "If this bill is not passed, the legislature is saying that somehow when you are older you are fundamentally different from someone who is developmentally disabled, a recovering alcoholic, or a troubled youth. That somehow we will allow all these people to be in our neighborhoods, but not our elderly, and that just doesn't make sense."

**REP. FORRESTER** gave a personal example of a family member who went to live in a three-patient assisted-living facility after breaking her hip. He said that prior to that time he might have felt the same way as **REP. MORGAN**, but taking that family member to a small caring residential home that she felt comfortable with changed his way of thinking. He stated, "We say it is a local issue until we actually have someone close that needs care, just like this. These homes are an option for people that need a specialized area of care that an individual can provide." He said that it probably helped the homeowner financially to have those residents there.

**REP. MORGAN** asked what would happen if the bill were amended to limit this to four people like the adult foster family homes to avoid traffic problems. Having been convinced by **REP. RASER's** argument, she said she could support that.

**REP. RASER** commented, "Maybe we should have special zoning districts for large families, that would be along the same line."

**REP. HAWK** said, "If the limit were four beds, it might not be economically feasible for them."

**Vote:** Motion carried 14-2 on a roll call vote, with **REPS. BITNEY** and **MENDENHALL** voting no. **REPS. BITNEY** and **OLSON** voted by proxy.

**CHAIRMAN NOENNIG** asked REP. RASER to carry the bill in the House.



**ADJOURNMENT**

Adjournment: 5:10 P.M.

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REP. MARK NOENNIG, Chairman

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LINDA KEIM, Secretary

MN/LK

**EXHIBIT** (loh53aad)